UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ART UNIT	PAPER NUMBER
2621	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/554,226	VAN GESTEL ET AL.
	Examiner	Art Unit	
	SYED Y. HASAN	2621	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 March 2009</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1 - 11</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1 - 11</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>06 March 2009</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☒ All   b)☐ Some * c)☐ None of:

   1.☒ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date <u>3/29/2007 and 3/6/2009</u>.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed on **03/06/2009** regarding claims 1 - 11 have been

fully considered but they are not persuasive.

        In re page 14 applicant argues with respect to claim 1 that "Macrae et al. is

describing various "tabs" appearing in the display of the interactive television program

guide application. While these tabs may relate to different applications corresponding to

different application data objects, there is no disclosure or suggestion of "message

means for extracting messages from the data stream, the messages containing the

application data objects"."

        In response examiner disagrees. Below is an explanation for providing the

broadest reasonable interpretations for the claims.

2111 [R-5] Claim Interpretation; Broadest Reasonable Interpretation

CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." >The Federal Circuit's *en banc* decision in *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the "broadest reasonable interpretation" standard:

> The Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004). Indeed, the rules of the PTO require that application claims must "conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description." 37 CFR 1.75(d)(1).

> 415 F.3d at 1316, 75 USPQ2d at 1329. See also< *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969)

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USQ2d 1464, 1468(Fed. Cir. 1999)

Applicant defines messages as "a data stream comprising the video information and application data objects contained in messages, such as DVB-MHP (abstract) and "interactive application in real-time information separate from real-time information (para 0008)

Wilkipedia , The free encyclopedia on the internet defines messages as the following:

Multimedia Home Platform (DVB-MHP) is an open <u>middleware</u> system <u>standard</u> designed by the <u>DVB</u> project for <u>interactive digital television</u>. The MHP enables the reception and execution of interactive, <u>Java</u>-based applications on a TV-set. <u>Interactive TV</u> applications can be delivered over the broadcast channel, together with audio and video streams. These applications can be for example information services, games, interactive voting, e-mail, SMS or shopping. For all interactive applications an additional return channel is needed.

Macrae et al discloses an interactive television program guide application may be configured to provide a number of interactive features such as television program listings, video-on-demand services, web-browsing services, games, home shopping, and other interactive features, to the user.(para 0003). Furthermore Macrae et al discloses "In some embodiments, in response to the user highlighting a listing having real-time information, the interactive television program guide application may display a video window that includes a video clip relating to the highlighted listing. The video clip may be selectable by the user." (para 0008). Service navigation bar 804 includes options for allowing the user to navigate to different services provided by the interactive television program guide application.(para 0106, here the message would have to be extracted to be displayed.)

From the above discussion it becomes clear that the message is being extracted from the data stream and they contain application data objects.

In re page 15 applicant argues with respect to claim 1 that "Macrae et al provides no disclosure or suggestion of parsing means for generating application control information." As described in the specification on page ii, lines 17-21, the parsing unit

parses the MHP packets to extract the application control information.

In response examiner disagrees. Applicant defines parsing as "The device also has a parsing unit (95) for generating application control information that includes accessing information for accessing the messages in the message file.(abstract)" Macrae et al discloses "FIG. 8 shows an illustrative program listing screen that may be provided by the interactive television program guide application in accordance with various embodiments of the present invention. As shown in FIG. 8, display screen 800 and program guide display screens generally may include a video window 802, a service navigation bar 804, a listings area 806, and a panel area 808. Video window 802 contains a video clip. In some embodiments, the video clip may correspond to the currently highlighted program listing in listings area 806. Alternatively, the video clip may be associated with a program that is related to the currently highlighted program listing (e.g., a program in the same genre)." (para 0094). This clearly illustrates parsing means for generating application control information.

In re page 15 applicant argues with respect to claim 1 that "there is no disclosure or suggestion in Macrae et al. of "control means for storing the messages in a message file separate from the real-time information as a series of the messages for the program, and for storing the application control information in a message info file, the application control information including accessing information for accessing the messages in the message file."

In response examiner disagrees. Macrae et al discloses "In some embodiments, the interactive television program guide application may provide improved listings

displays that have real-time information, such as, for example, sports scores, news, weather, and any other suitable real-time information (para 0007). In some embodiments, in response to the user highlighting a listing having real-time information, the interactive television program guide application may display a video window that includes a video clip relating to the highlighted listing (para 0008). This demonstrates that the message is separate from the real time information. Furthermore Macrae et al discloses "In some embodiments, in response to the user highlighting a listing having real-time information, the interactive television program guide application may display a video window that includes a video clip relating to the highlighted listing. The video clip may be selectable by the user." (para 0008). Service navigation bar 804 includes options for allowing the user to navigate to different services provided by the interactive television program guide application.(para 0106) This demonstrates that the message has to be stored in order to be accessed by the user.

Based on the above discussion claim 1 stays rejected.

Claim 4 objected to the disclosure of claim 1 which has been explained above.

Applicant cannot show non-obviousness by attacking references individually, where as here the rejections are based on combination of references. In re Keller, 208 USPQ 871 (CCPA 1981)

The test for combining references is what the references as a whole would have suggested to one of ordinary skill in the art. In re Sheckler, 168 USPQ 716 (CCPA 1971); In re McLaughlin 170 USPQ 209 (CCPA 1971); In re Young 159 USPQ 725 (CCPA 1968)

Specification is not the measure of invention. Therefore, limitations

contained therein can not be read into claims for the purpose of avoiding the prior

art. In re Spork, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1968)

Manor et al is disclosing only removing abundant information from the data (para

0030). Claim 4 is rejected based on the combination of Macrae et al and Manor et al

disclosures.

Hence claim 4 stays rejected.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed

in the United States before the invention by the applicant for patent or (2) a patent granted on an application for

patent by another filed in the United States before the invention by the applicant for patent, except that an

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

subsection of an application filed in the United States only if the international application designated the United

States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1 – 3 and 7 - 11 are rejected under 35 U.S.C. 102 (e) as being anticipated

by Macrae et al (US 2005/0015803)

Regarding **claim 1**, Macrae et al discloses a device for recording information on

a record carrier (fig 3, 62, para 0060, fig 4, 66, para 0066 and fig 6, 98, para 0085

recording) said device comprising:

recording means for recording marks representing digitally encoded real-

time information, including video information, encoded according to a predefined

recording format (fig 3, 62, para 0060, fig 4, 66, para 0066 and fig 6, 98, para 0085

recording, para 0057 and 0065 recording video and para 0090 illustrates MPEG signal

which is predefined recording format)

an input unit for receiving a data stream constituting an enhanced user

program, the data stream comprising the real-time information and application data

objects, at least one subset of the application data objects constituting data for providing

to a user at least one interactive application while rendering the real-time information

(fig 3, 58, para 0059, fig 4, 70, para 0068 and fig 6, 104, para 0081 illustrate inputs for

real-time information and interactive application and abstract illustrates user interaction)

message means for extracting messages from the data stream, the messages

containing the application data objects (para 0106 illustrates message extracted from

data stream)

parsing means for generating application control information (para 0069 and

0094 illustrates generating application control information) and

control means for storing the messages in a message file separate from the

real-time information as a series of the messages for the program and for storing the

application control information in a message info file, the application control information

including accessing information for accessing the messages in the message file (paras

0062 and 0069 illustrate storage of interactive tv application data base and executing

application)

Regarding **claim 2**, Macrae et al discloses the device, wherein the parsing

means includes, for a message at least one of the following items as accessing

information in the message info file: a message number, the message number identifying the message in the series of the messages; a message type indicator; a start location in the message file; length of the message; number of a succeeding message (para 0106 illustrates a message type indicator)

Regarding **claim 3**, Macrae et al discloses the device, wherein the parsing means includes active period information in the message info file, said active period information includes a start time and an end time with respect to a presentation time of the program (para 0099 illustrates start time and para 0121 illustrates end time)

Claim 7 is rejected based on claim 1 above with the additional limitation regarding reading information as disclosed by Macrae et al (fig 3, para 0067. fig 4, para 0073 and fig 6, para 0081 illustrating playing as reading)

Claims 8 and 10 are rejected based on claim 1 above.

Claim 9 is rejected based on claim 2 above.

Claim 11 is rejected based on claim 1 above with the added limitation regarding computer program as disclosed by Macrae et al (fig 6, 98, para 0081 personal computer)

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in

section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the

manner in which the invention was made.

5.   Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Macrae et al (US 2005/0015803) in view of Manor et al (US 2003/0236918)

        Regarding **claim 4**, Macrae et al discloses the device, wherein the message

means are messages extracted from the data stream (see claim 1 above)

        However Macrae et al does not disclose removes redundant information from

the data stream

        On the other hand Manor et al teaches removes redundant information from the

data stream (para 0030)

        It would have been obvious to one of ordinary skill in the art at the time of the

invention to incorporate removes redundant information from the data stream as taught

by Manor et al in the system of Macrae et al in order to provide efficient encapsulated

multimedia packets.

        Regarding **claim 5**, Macrae et al discloses the device, wherein the message

means are messages extracted from the data (see claim 1 above)

        However Macrae et al does not disclose removes as the redundant information

header information of packets, including headers of transport stream packets

        On the other hand Manor et al teaches removes as the redundant information

header information of packets, including headers of transport stream packets (para

0030)

        It would have been obvious to one of ordinary skill in the art at the time of the

invention to incorporate removes as the redundant information header information of

packets, including headers of transport stream packets as taught by Manor et al in

the system of Macrae et al in order to efficient encapsulated multimedia packets.

6.   Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Macrae et

al (US 2005/0015803) in view of Manor et al (US 2003/0236918) and further in view of

Kostreski et al (5734589)

        Regarding **claim 6**, Macrae et al discloses the device, wherein the message

means are messages extracted from the data (see claim 1 above)

        However Macrae et al does not disclose removes as the redundant information

messages that are repeatedly transmitted, including messages repeatedly transmitted in

a data carousel.

        On the other hand Kostreski et al teaches removes as the redundant information

(col 26, lines 31 – 46 illustrates removing redundant data) messages that are repeatedly

transmitted, including messages repeatedly transmitted in a data carousel (col 29, lines

42 – 44 illustrates data carousel)

        It would have been obvious to one of ordinary skill in the art at the time of the

invention to incorporate removes as the redundant information messages that are

repeatedly transmitted, including messages repeatedly transmitted in a data carousel as

taught by Manor et al in the combined system of Macrae et al and Manor et al in order

to provide efficient broadcast.

Conclusion

7.   **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

8.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure

      Horton (US 5969770) discloses animated "on-screen" display provisions for an

MPEG video signal processing system

      Vienneau et al (US 7427988) discloses method and apparatus for defining and

distributing an animation

      Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Syed Y. Hasan whose telephone number is 571-270-

1082. The examiner can normally be reached on 9/8/5.

      If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Y. H./
06/01/2009

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621